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E-FILED on 3/17/10

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

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METTEYYA BRAHMANA, No. C-09-00106 RMW

Plaintiff,

v.

PHILLIP CHARLES LEMBO, CYBERDATA  
CORPORATION, NUMONIX, INC.,  
CONQUEST TECHNOLOGY LIMITED, and  
CAMERON BARFIELD,

Defendants.

ORDER REGARDING VIDEO  
DEPOSITIONS

[Re: Docket Nos. 182, 184]

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The court has received the letters submitted by plaintiff and by defendants' counsel regarding the issue of videotaped depositions. Although the videotaped depositions were discussed in the recent hearing on March 12, 2010, no transcript or partial transcript from these depositions were offered in support of or in opposition to the motion to dismiss. A motion to dismiss is, of course, based upon pleadings and not evidence. If there is future use of the depositions for any purpose, the parties are free to argue as to the admissibility of those depositions and to make any request for sanctions that they deem appropriate.

DATED: 3/17/10

  
RONALD M. WHYTE  
United States District Judge

1 **Notice of this document has been electronically sent to:**

2 **Plaintiff:**

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4 **Counsel for Defendants:**

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7 Counsel are responsible for distributing copies of this document to co-counsel that have not  
8 registered for e-filing under the court's CM/ECF program.

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10 **Dated:** 3/17/10

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CCL  
Chambers of Judge Whyte